

APPEAL NO. 050320
FILED APRIL 6, 2005

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 7, 2005. The hearing officer determined that the compensable injury of _____, extends to include the respondent's (claimant) right carpal tunnel syndrome. The appellant (self-insured) asserted that this case be reversed and remanded for reconstruction of the record because a portion of (Dr. C) testimony by telephone was not recorded due to tape malfunction. Additionally, the self-insured appealed the hearing officer's extent-of-injury determination based on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

We reverse and remand for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. See Texas Workers' Compensation Commission Appeal No. 91017, decided September 25, 1991. The record consisted of one audiotape. At the end of side A there is a segment of Dr. C's testimony by telephone on direct examination, and at the beginning of side B of the tape the hearing officer comments that there were problems with the recording and both parties stipulate as to what Dr. C testified to on cross-examination and re-direct examination. The self-insured complains on appeal that although stipulations were made with regard to testimony on cross-examination and re-direct examination, a portion of Dr. C's testimony on direct examination was not recorded. Because Dr. C's testimony was not complete, we reverse and remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

(NAME)
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Veronica L. Ruberto
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge